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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,657	12/28/2000	Petra Koschany	MSI	4076

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EXAMINER

SCALTRITO, DONALD V

ART UNIT PAPER NUMBER

1746

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/720,657

Applicant(s)

KOSCHANY, PETRA

Examiner

Donald V Scaltrito

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-15 is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed on 06 May 2003, with respect to the rejection(s) of claim(s) 1, 2, 4-6, 8, 11, 12 & 15 under 35 U.S.C. 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of U.S. Patent No. 5,264,299.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Krasij et al. (U.S. Patent No. 5,264,299).

Krasij et al. disclose a support plate for a proton exchange membrane fuel cell includes a porous support body that has a central portion and a peripheral portion integral with and circumferentially completely surrounding the central portion and a sealing body of elastomeric sealing material that completely fills the pores of the peripheral portion to make it impermeable to fluids. The support plate may be assembled with another one and with a proton exchange

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membrane interposed between the two support plates to form an assembly and the sealing body then peripherally joins and seals the assembly and fills any gaps that may be present between the peripheral portions due to the absence of the membrane from such regions and thus to peripherally encapsulate the membrane (note abstract).

With respect to Claim 1, Krasij et al. disclose a membrane electrode assembly comprising a polymer electrolyte and a gas diffusion layer wherein a bipolar plate protrudes over the periphery of the assembly. Krasij et al. go on to teach that the area that protrudes over the membrane electrode assembly is filled with an adhesive in a gap-free and gas-tight manner (see column 5, lines 1-57 of this reference; see also column 5, line 64 – column 6, line 4 and Figures 1 & 2). With respect to Claim 2, Krasij et al. disclose that the bipolar plate and the membrane electrode assembly are glued together. With respect to Claim 3, Krasij et al. disclose that the adhesive can penetrate into the membrane (column 5, lines 27-39). With respect to Claim 4, Krasij et al. disclose a silicone resin (column 6, lines 46-49). With respect to Claim 5, Krasij et al. disclose pretreating the claimed areas with a bonding agent (column 7, lines 1-5). With respect to Claim 6, Krasij et al. disclose pretreating the claimed areas with a bonding agent (column 7, lines 1-5). From Figures 1 & 2, it is disclosed that the structure is planar. With respect to Claim 7, Krasij et al. disclose that the adhesive can penetrate into and fill the claimed areas (column 5, lines 27-40). With respect to Claim 8, Krasij et al. disclose the method of producing the assembly as claimed (column 5, line 58 – column 7, line 14). With respect to Claim 9, Krasij et al. disclose that the bipolar plate and the membrane electrode assembly are glued together. With respect to Claim 10, Krasij et al. disclose that the adhesive can penetrate into and fill the claimed areas (column 5, lines 27-40). With respect to Claim 11, Krasij et al. disclose a silicone

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resin (column 6, lines 46-49). With respect to Claim 12, Krasij et al. disclose pretreating the claimed areas with a bonding agent (column 7, lines 1-5).

Allowable Subject Matter

Claims 13-15 are allowed. The following is an examiner's statement of reasons for indicating allowable subject matter: The prior art of record fails to teach or fairly suggest a membrane electrode assembly (MEA) and a bipolar plate wherein the MEA comprises a polymer electrolyte membrane and a gas diffusion layer and wherein the bipolar plate rests against the side of a gas diffusion layer while forming a circumferential marginal volume zone that is defined at the top, bottom and sides by the bipolar plate, the gas diffusion layer and the membrane, respectively, characterized by the fact that the circumferential marginal volume zone is filled with a cured adhesive all the way to its defining faces in a gap-free and gas-tight manner wherein a vacuum-clamping table for positioning the membrane electrode assembly on a separator plate.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Scaltrito, whose telephone number is 703.305.4926. The examiner can be reached in his office on Monday-Friday between the hours of 9am to 6pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski, may be reached at 703.308.4333. The official fax number for the organization where this application or proceeding is assigned is 703.872.9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.305.0661

Donald Scaltrito
Patent Examiner
Art Unit 1746
September 20, 2003

BRUCE F. BELL
PRIMARY EXAMINER
GROUP 1746